

Civil Misc. App. No. 9879 of 2006
IN
A.O. No. 449 of 2004

Hon. Prafulla C. Pant, J.

Heard learned counsel for the parties.

Learned counsel for the appellant drew attention of this Court to the order dated 07.04.2005, passed by Division Bench of this Court in Appeal from Order No. 275 of 2003 United India Insurance Co. Ltd. Vs. Smt. Pushpa Dhaundiyal and others, which has arisen out of the same accident.

In said judgment, following the principle of law laid down in National Insurance Company Ltd. Vs. Nicolletta Rohtagi and others (2002) 7 S.C.C. 456, it has been held that since the Insurance Company has not sought permission under Section 170 of Motor Vehicles Act, 1988, as such, it has no right to challenge the award of the tribunal on merits.

In the above circumstances and following the above principle of law and the judgment of the Division Bench passed by this Court in a matter arising out of the same accident, this appeal is liable to be dismissed. The same is dismissed.

Application No.9879 of 2006, moved by respondent No. 2 does not need any orders, as the appeal is being dismissed, as such, the same also stands disposed of.

(P.C. Pant, J.)

Dt. 07.08.2006
Sweta